



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 8, 1994

Ms. Karen L. Horner
Assistant City Attorney
City of Baytown
P.O. Box 424
Baytown, Texas 77522-0424

OR94-332

Dear Ms. Horner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 23072.

The City of Baytown (the "city") received a request for the "[n]ame of the person or persons behind all the complaints [the requestor has] been receiving for the last two years." You contend that the informer's privilege, incorporated into section 552.101 of the Open Records Act, excepts the requested information from required public disclosure.

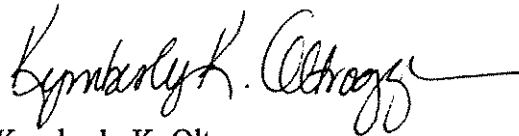
Texas courts long have recognized the informer's privilege, *see Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928), and it is a well-established exception under the Open Records Act, Open Records Decision No. 549 (1990) at 4. The informer's privilege protects the identity of persons who report violations of the law to officials having the duty of enforcing particular laws. The privilege thus encourages citizens to report the commission of crimes to law enforcement officials by keeping their identity anonymous. *Roviaro v. United States*, 353 U.S. 53, 59 (1957).

The informer's privilege does not apply to information that does not describe illegal conduct. Open Records Decision No. 515 (1988) at 5. The privilege excepts the informer's statement itself only to the extent necessary to protect the informer's identity. Open Records Decision No. 549 at 5. However, once the identity of the informer is known to the subject of the communication, the exception is no longer applicable. Open Records Decision No. 202 (1978) at 2.

You state that the complaints deal with a structure that is not in compliance with chapter 33 of the Code of Ordinances of the City of Baytown. Because the complainant is reporting violations of city ordinances, you may withhold the requested information under the informer's privilege.

As case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kimberly K. Oltrogge", with a long horizontal flourish extending to the right.

Kimberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/LBC/rho

Ref.: ID# 23072

Enclosures: Submitted documents

cc: Mr. C. T. Garza
Law Office of Luis De Leon
5615 Harrisburg Boulevard
Houston, Texas 77011
(w/o enclosures)